

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL GIESBRECHT,
Plaintiff,
v.
JULIE WILLIAMS, et al.,
Defendants.

Case No.: 2:23-cv-00927-JAD-NJK

ORDER

(Docket Nos. 1, 3)

On June 13, 2023, *pro se* plaintiff Michael Giesbrecht, an inmate in the custody of the Nevada Department of Corrections, submitted a complaint under 42 U.S.C. § 1983 and applied to proceed *in forma pauperis*. Docket Nos. 1, 1-1. Plaintiff Giesbrecht's application to proceed *in forma pauperis* is incomplete because he did not submit both a completed financial certificate signed by a jail or prison official and an inmate trust fund account statement for the previous six-month period with the application. Plaintiff Giesbrecht recently moved for leave to file an amended complaint that would add a new defendant—corrections officer Pena—and a new plaintiff—NDOC prisoner Keith Paul Bird—to this action. Docket Nos. 3, 3-1. The proposed first amended complaint is signed by both Giesbrecht and Bird. *See* Docket No. 3-1 at 28. Further, Bird submitted an application to proceed *in forma pauperis*. Docket No. 3-2. Bird's application to proceed *in forma pauperis* is incomplete, however, because he, too, did not include both a financial certificate and an inmate trust fund account statement for the previous six-month period with the application.

Generally, the Court “should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). The Court grants the motion for leave to file an amended complaint. An amended complaint replaces the original complaint, so the amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989). The Court therefore disregards the original complaint.

1 The United States District Court for the District of Nevada must collect filing fees from
 2 parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights action is \$402,
 3 which includes the \$350 filing fee and the \$52 administrative fee. *See* 28 U.S.C. § 1914(b). “Any
 4 person who is unable to prepay the fees in a civil case may apply to the court for leave to proceed
 5 *in forma pauperis*.” LSR 1-1. For an inmate to apply for *in forma pauperis* status, the inmate
 6 must submit **all three** of the following documents to the Court: (1) a completed **Application to**
 7 **Proceed in Forma Pauperis for Inmate**, which is pages 1–3 of the Court’s approved form, that
 8 is properly signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is
 9 page 4 of the Court’s approved form, that is properly signed by both the inmate and a prison or jail
 10 official; and (3) a copy of the **inmate’s prison or jail trust fund account statement for the**
 11 **previous six-month period**. *See* 28 U.S.C. § 1915(a)(1)–(2); LSR 1-2. *In forma pauperis* status
 12 does not relieve an inmate of his or her obligation to pay the filing fee, it just means that the inmate
 13 can pay the fee in installments. *See* 28 U.S.C. § 1915(b).

14 Accordingly, for the reasons stated above,

15 IT IS ORDERED that the motion for leave to file an amended complaint is **GRANTED**.
 16 Docket No. 3.

17 IT IS FURTHER ORDERED that Plaintiffs’ applications for leave to proceed *in forma*
 18 *pauperis* are **DENIED** as incomplete. Docket Nos. 1, 3-4.

19 IT IS FURTHER ORDERED that the proposed first amended complaint, Docket No. 3-1,
 20 is the operative complaint in this action. If Plaintiffs timely comply with the rest of this order, the
 21 Court will screen the first amended complaint under 28 U.S.C. § 1915A, and consider whether
 22 Plaintiffs may be properly joined in a single action under Federal Rule of Civil Procedure 20, in a
 23 separate order. The screening process will take several months.

24 IT IS FURTHER ORDERED that, no later than **September 11, 2023**, Plaintiff Michael
 25 Giesbrecht must either pay the full \$402 filing fee or file a complete application to proceed *in*
 26 *forma pauperis*.
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1 IT IS FURTHER ORDERED that, no later than **September 11, 2023**, Plaintiff Keith Paul
2 Bird must either pay the full \$402 filing fee or file a complete application to proceed *in forma*
3 *pauperis*.

4 IT IS FURTHER ORDERED that, if Plaintiffs fail to timely comply with this order, this
5 action will be subject to dismissal without prejudice. A dismissal without prejudice allows
6 Plaintiffs to refile the case with the Court, under a new case number, when Plaintiffs can file
7 complete applications to proceed *in forma pauperis* or pay the required filing fee.

8 The Clerk of the Court is **INSTRUCTED** to file the First Amended Complaint, Docket
9 No. 3-1; add Keith Paul Bird to the docket as a plaintiff; and send Plaintiff Michael Giesbrecht
10 and Plaintiff Keith Paul Bird **each** the approved form application to proceed *in forma pauperis* for
11 an inmate, instructions for the same, and a courtesy copy of the first amended complaint, Docket
12 No. 3-1.

13 IT IS SO ORDERED.

14 DATED: July 12, 2023.

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17 NANCY J. KOPPE
18 UNITED STATES MAGISTRATE JUDGE
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